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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,526	07/10/2003	Gerd Breiter	DE920020011US1	1217

7590 06/09/2008
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EXAMINER

HUSSAIN, TAUQIR

ART UNIT	PAPER NUMBER
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2152

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/616,526	Applicant(s) BREITER ET AL.	
	Examiner TAUQIR HUSSAIN	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5, 7,9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to amendment /reconsideration filed on 02/27/2008, the amendment/reconsideration has been considered. Claims 1 and 11 have been amended, claims 6, 8 and 10 have been canceled and therefore, claims 1, 3-5, 7, 9 and 11-15 are pending for examination, the rejection cited as stated below.

Response to Arguments

2. Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Applicant has amended the claim 1 to overcome 112 second rejection, replacing the term Server's capability with "Server's operating parameters", however, claims 1 and 3, line 25 and line 3 respectively, still recite "server's capabilities". Examiner however replaces the phrase "server's capabilities" with "server's operating parameters".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothman et al (Pub. No.: US 2001/0044857 A1), hereinafter "Rothman" in view of Murto et al. (Pub. No.: US 2004/0213409 A1), hereinafter "Murto".

6. As to claims 1, 11, 14 and 15, A method for enhancing streaming operation in a distributed communication system providing communication links between a plurality of stream servers, a client machine requesting a particular media file, and a stream server selection unit, comprising the steps of:

retrieving a list of stream servers (Rothman, Fig.2, element-34, which shows directory server and directory server obviously will have the list of servers);

evaluating the list of stream servers by retrieving and considering the stream server's operating parameters (Rothman, Abstract, where live, simulated live or looping programming, relayed streams and on demand media delivery function can be interpreted as server's operating parameters), retrieving and considering the format(s) in which the media file is presented (Rothman, Abstract, where utilizing just-in-time play-list simulation, dynamic allocation of servers to listeners describes the property that request will be full filled according to specific preference as asked by client) , retrieving and considering preferences from the client (Rothman, Abstract, where delivering stream media to by allocating specific server to specific client / listeners dynamically means preferences are configured as per client requirements), retrieving and considering the connectivity properties of the client (Rothman, Abstract, where no load and low load control discloses the connectivity considerations are made accordingly),

selecting one of the stream servers on the list (Rothman, [0016], where directory server creates the list of the available stations and/or programs which can be selected by users means these programs and stations runs from various servers), determining if the selected stream server can handle the media format of a first media file (Rothman,

[0016], where when program is selected a player window is created, which is an instance of the user's preferred web browser), if the selected stream server can not handle the first media format converting the first media file to a second media file having a second media format (Rothman, [0060], where streaming data may include, audio data, video data, multimedia data, text data and or any combination thereof in a appropriate format to be received by client, which implicitly describes that server carry the functionality to use/change format according to the specific requirements),

determining if the selected stream server can handle the second media format, if the selected stream server can handle the second media format selecting the second media file, if the selected stream server can not handle the second media format then selecting a third media file having a third media format (Rothman, [0060], this is merely a repetition of the above limitation and it is well known to use any kind of algorithm to loop the process until desired results are obtained),

determining if the quality of the selected media file is too high for the connectivity properties of the client, if the quality of the selected media file is too high transcoding the selected media file (Rothman, [0061], where media file server 12 is a high capacity, and high availability network-attached data server configuration which provides the ability for multiple file systems to exist concurrently over multiple communication stacks with shared data access),

generating a meta file for the selected stream server (Rothman, [0008]-[0009], where on demand request for streams obviously has the metadata generated for the stream server before stream can be delivered to the client), and

initiating streaming from the selected stream server, wherein the step of evaluating the list of stream servers further comprises the steps of:

retrieving and considering the stream server's operating parameters (Rothman, [0017], where server has an operating parameters as delivering data in three modes), retrieving and considering the format(s) in which the media file is presented (Rothman, [0081], where streaming application may be used to implement live broadcast over the internet using client software to record and to encode the audio to be broadcast), and

retrieving and considering preferences from the client (Rothman, [0081], where streaming application may be used to implement live broadcast over the internet using client software to record and to encode the audio to be broadcast).

Rothman however is silent on disclosing explicitly, "using UDDI (universal description, directory and integration directory service".

Murto however discloses, "UDDI (universal description, directory and integration directory service" (Murto, [0004], where disclose is a UDDI as a defacto standard for an internet-based registry which enables users to discover services and businesses on the internet).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time the invention was made to combine the teachings of Rothman with the teachings of Murto in order to enable a wired or wireless user to discover Internet businesses and services in a specified geographical location by accessing the Universal Description, Discovery and Integration (UDDI) registry.

7. As to claim 3, carry similar limitations as claim 1 above therefore, is rejected under for same rationale. Additionally Rothman [0062] discloses, the media file server 12 suitable for wide variety of applications such as image or audio file repositories, internet radio, video on demand and networked video application etc.

8. As to claims 4 and 5, Rothman and Murto disclose the invention substantially as in parent claim 1 above, including, "step of retrieving and considering the player availability (Rothman, [0016], where program is selected and according to the program player window is created which is equivalent to preferred media player).

9. Claim 7, 9 and 12-13 are rejected under 35 U.S.C 103(a) as being unpatentable over Rothman and Murto as applied to claims 1, 3-5, 11 above in view of Kenner et al (Patent No.: US 6112239), hereinafter "Kenner".

10. As to claim 7, Rothman and Murto disclose the invention substantially as in parent claim 1 above including, considering one or more parameters (Rothman, [0017], where server delivering data in various modes are one set of parameters).

Rothman however is silent on disclosing explicitly, "step of weighting one or more of the considered parameters".

Kenner however discloses, "step of weighting one or more of the considered parameters" (Kenner, Col.9, lines 32-33, where weighting of parameters are disclosed).

Therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to combine the teachings of Rothman and Murto with the teachings of Kenner in order to provide a system for the optimized distribution of Web

content to sites located around the Internet. An intelligent mirroring scheme, called here "Smart Mirroring," is used to determine the need for and distribution of mirror sites and to direct user requests for certain Web content to an optimum mirror site.

11. As to claim 9, Rothman, Murto and Kenner discloses, the invention substantially, including, step of determining whether or not the format of media has changed (Col.14, lines 46-52).

1. As to claim 12, Rothman, Murto and Kenner discloses, the invention substantially, including, further comprising the initial step of detecting the capabilities of the client machine (Col.9, lines 58-63).

12. As to claim 13, Rothman, Murto and Kenner discloses, the invention substantially, including, further comprising the step of retrieving preferences predetermined by a user of the client machine (Col.6, lines 37-40).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAUQIR HUSSAIN whose telephone number is (571)270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571 272 3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. H. /

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Examiner, Art Unit 2152

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2146